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REVIEWS AND NEW BOOKS

General Works, Theory and Its History

Property and Contract in their Relations to the Distribution of Wealth. By RICHARD T. ELY. In two volumes. (New York: The Macmillan Company. 1914. Pp. xlvii, 474; vii, 995. \$4.00.)

In this book Professor Ely continues his vast work in broadening the thought of American economics. Like Knies he shows the necessity of law to economic thought; like Wagner, "the social function of law." It may be too much to hope that lawyers will admit that this is the work of the American von Ihering for whom they have wished; but economists, who will be content with a reading of von Ihering's metaphysical reasoning that private property is a social utility subject to social limitation, will refer again and again to Ely in their increasing need for final and practical establishment of the same principle. At the same time, the study has adequate connection with the larger process of social evolution. The author premises "social self consciousness"; "the unconscious social forces"; and the fact that "our age is becoming one of social self determination" (p. 340). It is ungrateful to wish of one man that so vast a work should have an even deeper historical foundation.

Analysis which is based on the too narrow experience of a transitory economic stage requires revision in the light of longer history. This comprehension will be derived from the examination of that "existing socio-economic order" which has been much neglected by English and American economists to the great loss of certainty and influence of their work. Students must withstand the American discouragement of the conditions of patient and long study of history and law from which alone influential work can henceforth be done. In an economic existence in which "nothing is unchanging but change" it seems to the historical student that "dynamic factors" may be explanatory of contemporary processes rather than only qualifying. The succeeding work of Professor Ely on "Distribution," which will now be eagerly awaited, will perhaps be decisive in this changing emphasis in economic thought.

The present volumes are "parts" one, two, and three, and "fragments" of parts four and five of the ten parts of "Book

One" of the five books which the author hopes to complete in covering the subject of distribution!

The fundamental institutions in distribution are property, inheritance, contract, vested rights, and personal condition. It might be asked whether "vested interests" and the fundamental nature of all property as human relations are not so essentially similar as to suggest an analysis based on relations rather than one based on the conception of property as the "exclusive control of an economic good" (p. 101). Indeed, Professor Ely himself refers to a possible treatment starting with property in human beings (p. 273), and thinks of vested rights under the head of property (p. 53), while the emphasis throughout is upon the "social side of private property."

There are two sides to property, the individual and the social. "The social side of private property is not to be regarded as something exceptional" (p. 136). Since property has a strong tendency to develop into full and absolute control, the maintenance of this social side, in Ely's mind as in von Ihering's, "requires conscious effort." From this arises the social theory that "private property is established and maintained for social purposes." If property is a social institution, the idea of trusteeship arises, and also that power of the state called the police power, which is "essentially the power to interpret property and especially private property and to give the concept a content at each particular period in our development which fits it to serve the general welfare" (p. 207). This definition is abundantly supported with cases and facts. However, the "social theory is a conservative one because the institution finds its limitations in the social welfare" (p. 251). Private property is to be maintained for its "stimulus," for the care and excellence of management, for the "development of personality," for its "use in the satisfaction of higher social needs," for "discipline in character." "Private property is the cement of society" (p. 304). "We cannot say that property is a good thing or a bad thing without qualification or limitation" (p. 334).

The conditions that give the best results of private property are thoroughly analyzed. Elaborate rules are given for the conversion of private into public property. Modes of acquisition may be modified. Thus the social tendency is to limit speculative gains and to cut off or to limit most kinds of surplus value

(p. 395), and emphatically to regulate inheritance. From this reasoning it follows that it is desirable to maintain "the fluidity of property," the readiness of conversion between public and private forms, the ease of change in the degree of "the extensivity or the intensivity" of its content. Private property is to be "universalized." The nature and justice of expropriation is presented as a remedy for the "failure of free contract to secure the social welfare." To Ely, as to von Ihering, "the idea of expropriation is in harmony with the idea of social evolution" (p. 496).

Contract is a factor inseparable from property. Distribution is brought about more by contract than by any other force. As time goes on "economic life is more and more made up of social relations." "Public necessity, public welfare and public policy are above private contract" (p. 730).

The social theory of property and contract requires a more scientific and flexible legislation, and a judiciary with "an enlightened twentieth century philosophy."

The work is characterized by Professor Ely's customary exactness of definition, fullness of reference to other authors, and thoroughness of bibliography. Professor Orth's table of cases on property tempts the busiest student to reading the decisions.

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Welfare as an Economic Quantity. By G. P. WATKINS. Hart, Schaffner & Marx Prize Essays, XVII. (Boston: Houghton Mifflin Company. 1915. Pp. xxv, 191. \$1.50.)

Mr. Watkins, of the Bureau of Statistics and Accounts of the Public Service Commission of New York, has written an excellent and interesting volume whose title is a fair indication of its contents, though one may quarrel with his use of the word quantity. Quantity implies measurement and nowhere in the book do I find any indication of a measure of welfare. It is a study of economic consumption which shows a thorough acquaintance with authorities, especially Patten. The treatment is highly abstract even on topics susceptible of more concrete handling, but the author engages himself to make a different kind of study at a later date. Yet one must grant that the book abounds in pertinent and felicitous illustrations.

"Doubtless welfare is primarily psychical. The phrase 'an economic quantity' moreover, should be taken in a restrictive sense,